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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,110	12/10/2003	Fabien Lavoie	15680-1us PN/df	4511
20988	7590	11/14/2006		
OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			EXAMINER GREENHUT, CHARLES N	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,110

Applicant(s)

LAVOIE, FABIEN

Examiner

Charles N. Greenhut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

I. Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/22/06 has been entered.

II. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 1-6 and 10-12 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over CATES (US 2,902,101) in view of CARSTENS (US 6,336,642 B1).

- 1.1. With respect to claim 1, CATES discloses a support surface (47), endless track (38), power source (33) and an anti-roll device being at least one arm (52) projecting longitudinally away from the support surface (47). CATES fails to disclose that the arm is completely above a plate of an undersurface of the apparatus. CARSTENS teaches an arm completely above a plane of an undersurface (Fig. 4). It would have been obvious to one of ordinary skill in the art to modify CATES with the safety device of CARSTENS in order to prevent falling down the stairs.

- 1.2. With respect to claim 2, CATES additionally discloses an arm projecting rearwardly (52).

- 1.3. With respect to claim 3, CATES additionally discloses the arm displaceable from a retracted position, not projecting, to a projecting position. (Col. 2 Li. 68 et seq.)
- 1.4. With respect to claim 4, CATES additionally discloses actuation of the arm is automated as a function of inclination (53).
- 1.5. With respect to claim 5, CATES additionally discloses a brake (Col. 3 Li 43-47).
- 1.6. With respect to claim 6, CATES additionally discloses a roller system selectively deployable for displacing the apparatus without the endless track (49).
- 1.7. With respect to claim 10, CATES additionally discloses the support surface pivotally displaceable.
- 1.8. With respect to claim 11, CATES additionally discloses the support surface displaceable with respect to a height.
- 1.9. With respect to claim 12, CATES additionally discloses a cylindrical roller (Col. 3 Li. 38-41).
2. Claim(s) 7-9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over CATES in view of CARSTENS and further in view of SOWERBY (US 2,873,870).
 - 2.1. With respect to claim 7, CATES fails to teach the roller system having an actuated mechanism for deploying the rollers. SOWERBY teaches the roller system having an actuated mechanism for deploying the rollers (106)/(122). It would have been obvious to one of ordinary skill in the art to modify CATES with the actuation system of SOWERBY in order to facilitate conversion between the endless track and wheels, thereby allowing the vehicle to quickly adjust to a different terrain.

2.2. With respect to claim 8, CATES fails to teach four rollers, one in each corner.

SOWERBY teaches four rollers, one in each corner. It would have been obvious to one of ordinary skill in the art to modify CATES with the four rollers, one in each corner of SOWERBY in order to improve stability.

2.3. With respect to claim 9, CATES additionally teaches a swivel mechanism (Col. 3 Li. 39).

3. Claim(s) 13-16 and 19-20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over CATES in view of THUNELL (US 4,278,395 A).

3.1. With respect to claim 13, CATES discloses a support surface (47), endless track (38), power source (33), and roller (Col. 3 Li. 38-41). CATES fails to specify the details of the roller. It is well-known to cooperate an endless track propelling a load with a cylindrical roller to transfer a load to or from a support surface as demonstrated, for example, by THUNELL. It would have been obvious to one of ordinary skill in the art to modify CATES with a roller as taught by THUNELL in order to facilitate loading and unloading the load-supporting surface.

3.2. With respect to claim 14, CATES additionally discloses a brake (Col. 3 Li 43-47).

3.3. With respect to claim 15, CATES additionally discloses a roller system selectively deployable for displacing the apparatus without the endless track (49).

3.4. With respect to claim 16, CATES additionally discloses a portion of the endless track exposed beyond the support surface.

3.5. With respect to claim 19, CATES additionally discloses the support surface pivotally displaceable.

3.6. With respect to claim 20, CATES additionally discloses the support surface displaceable with respect to a height.

4. Claim(s) 17-18 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over CATES in view of THUNELL and further in view of SOWERBY.

4.1. With respect to claim 17, CATES fails to teach four rollers, one in each corner.

SOWERBY teaches four rollers, one in each corner. It would have been obvious to one of ordinary skill in the art to modify CATES in view of THUNELL with the four rollers, one in each corner of SOWERBY in order to improve stability.

4.2. With respect to claim 18, CATES additional teaches a swivel mechanism

III. Response to Applicant's Arguments

Applicant's arguments entered 9/22/06 have been fully considered.

1. Applicant argues that claim 1 as amended is not anticipated by CATES. This argument is persuasive and the rejection of claim 1 under 35 USC 102(b) as anticipated by CATES is therefore withdrawn. Upon further consideration however, a new grounds of rejection is presented above over CATES in view of CARSTENS.

2. Applicant argues that the teachings of CARSTENS do not render claim 1 obvious because the safety arm of CARSTENS prevents downward motion of the CARSTENS apparatus. This argument is not persuasive. Firstly, the fact that the CARSTENS safety arm is capable of preventing downward motion in no way prohibits the arm from meeting all the structural limitation of the claim. Furthermore, applicant points out that the arm is freely movable. This feature does not advance applicant's position. It is noted that though CARSTENS uses the term "freely" to indicate the rotability of the arm, the arm's rotation is in fact controlled by

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actuator (48). The arm is controllably movable to different positions in order to selectively engage or disengage the stairs and therefore is capable of the position claimed by applicant. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

3. Applicant argues that claim 13, as amended, is not rendered obvious by CATES in view of THUNELL. This argument is not persuasive. Applicant asserts that the newly presented limitations define patentable subject matter. As discussed above, claim 13, as amended, is not found to recite patentable subject matter.

IV. Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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